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In re Application of
Cerreto
Serial No.: 10/540,744 : DECISION ON
PCT No.: PCT/US03/07414 : PETITION
Int. Filing Date: 11 March 2003 : UNDER 37 CFR 1.137(b)
Priority Date: 13 March 2002 :
Attorney's Docket No.: 12873.05197 :
For: ADJUSTABLE SEATING SYSTEM :

This decision is responsive to the "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)" filed 24 June 2005.

BACKGROUND

On 11 March 2003, applicants filed international application PCT/US03/07414, which claimed priority of an earlier United States provisional application filed 13 March 2002. Accordingly, the thirty-month period for paying the basic national fee for the national expired at midnight on 13 September 2004.

On 24 June 2005, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, a copy of the international application, an executed declaration, the petition to revive, the petition fee, the basic national fee, the search fee, the examination fee, the surcharge for filing the declaration later than 30 months, and the recordation fee. These papers were assigned Application No. 10/540,744.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied (1) by a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," (2) by a proper reply, (3) by the petition fee required by law (37 CFR 1.17(m)), and (4) if the international filing date of the application is before June 8, 1995, any petition to revive under 37 CFR 1.137(b) must be accompanied by a terminal disclaimer and small entity fee of \$55.

A review of the application reveals that all of the requirements for revival under 37 CFR 1.137(b) have been satisfied. With respect to (1), applicant filed the proper statement. With respect to (2), applicant filed the transmittal letter, an executed declaration and a check for the basic national fee. With respect to (3), applicant filed the proper petition fee.

CONCLUSION

The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** as to the national stage in the United States.

This application is being forwarded to the national stage office for preparation of a "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.494 OR 1.495" (Form PCT/DO/EO/903) showing a 35 U.S.C. 371 date of **24 June 2005**.




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